UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,823	09/08/2000	Nezar A. Gharbia	068520.0113	2871

7590	03/24/2006

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EXAMINER
KIANERSI, MITRA

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 03/24/2006

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/658,823	GHARBIA ET AL.
	Examiner	**Art Unit**	
	Mitra Kianersi	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 September 2000</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-30</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-30</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>09/08/2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/16/2006</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In *re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-30 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,651,121. Although the conflicting claims are not identical, they are not patentably distinct from each other because the independent claim 16 of the present application are not patentably distinct from claim 1 of the U.S. Patent No. 6,651,121.

The preamble of Claim 1 of the present invention discloses a method comprising the steps of executing in a computer system a first procedure which effects execution of a series of project definitions, wherein each said project definition obtains data from a

data source, processes the data in a specified manner, and then places the data in a data destination, executing in said computer system a second procedure which monitors said execution of said first procedure for a condition, and which takes remedial action in response to detection of said condition and preamble of claim 1 of U.S. Patent No. 6,651,121 discloses a method, comprising the steps of providing a computer system having a plurality of processors, including first and second processors; executing in said computer system on one of said processors thereof a first procedure which selectively launches execution in said computer system of respective project definitions in response to respective requests for execution.

Examiner interpretation; The U.S. Patent No. 6,651,121 is a method for providing a computer system having a plurality of processors, including first and second processors; executing in computer system on one of processors thereof a first procedure which selectively launches execution in computer system of respective project definitions in response to respective requests for execution thereof, each project definition including: a plurality of function portions which each correspond to one of a plurality of predetermined function definitions that are different, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which data can be supplied to the data destination; and binding information which includes binding portions that each associate a respective said input port with one of said output ports; providing second and third procedures which can be respectively executed by said first and second processors and which can each effect execution of said project definitions; causing said first procedure to respond to a request for execution of a first said project definition by launching execution in said first processor of said first project definition by said second procedure; and causing said first procedure to respond to a request for execution of a second said project definition during execution of said first project definition in said first processor by evaluating at least one of said second project

definition and a current operational characteristic of said first processor, by selecting
one of said first and second processors in dependence on a result of said evaluating
step, and by then launching execution in said selected one of said first and second
processors of said second project definition by a respective one of said second and
third procedures.

Claim 1, line 2-6 discloses executing in a computer system a first procedure which
effects execution of a series of project definitions, wherein each said project definition
obtains data from a data source, processes the data in a specified manner, and then
places the data in a data destination is similar to the method for providing a computer
system having a plurality of processors, including first and second processors;
executing in computer system on one of processors thereof a first procedure which
selectively launches execution in computer system of respective project definitions in
response to respective requests for execution of the U.S. Patent No. 6, 651,121, each
project definition including: a plurality of function portions which each correspond to one
of a plurality of predetermined function definitions that are different, and which each
define at least one input port and at least one output port that are functionally related
according to the corresponding function definition; a further portion which includes a
source portion identifying a data source and defining an output port through which data
from the data source can be produced, and which includes a destination portion
identifying a data destination and defining an input port through which data can be
supplied to the data destination; and binding information which includes binding
portions that each associate a respective said input port with one of said output ports;
providing second and third procedures which can be respectively executed by said first
and second processors and which can each effect execution of said project definitions;

Claim 1, lines 7-10 discloses executing in said computer system a second procedure
which monitors said execution of said first procedure for a condition, and which takes
remedial action in response to detection of the conditions is project definition by
launching execution in said first processor of first project definition by second
procedure; and causing first procedure to respond to a request for execution of a

second project definition during execution of first project definition in first processor of the U.S. Patent No. 6, 651,121.

The independent claim 16 is teaching the same limitations as independent claim 1, therefore, it is being rejected by the same rational.

Examiner suggests that the inventor specify the significance of the claimed invention over the U.S. Patent No. 6, 651,121.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Kianersi whose telephone number is (571) 272-3915. The examiner can normally be reached on 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cordone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mitra Kianersi
March/16/2006
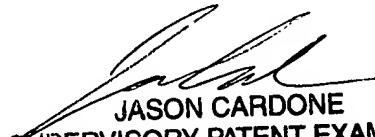
JASON CARDONE
SUPERVISORY PATENT EXAMINER